

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
FRANK'S CLEANUP SERVICE, INC.,)	CASE NO. 04-60867 JPK
)	Chapter 11
Debtor.)	

ORDER ON MOTION FOR RECONSIDERATION

On June 8, 2006, creditor Center Capital Corporation filed a Motion for Reconsideration which requests that the Court set a hearing to reconsider the treatment provided to that creditor in the order confirming the debtor's Chapter 11 plan entered on May 24, 2006. The motion does not state the bases upon which the requested relief is premised. Clearly, an order confirming a Chapter 11 plan is a final order, and the remedies with respect to reconsideration of any matter relating to the order confirming the plan are limited. One remedy is to appeal the confirmation order pursuant to Fed.R.Bankr.P. 8002(a); the creditor's motion is untimely under this provision. Another remedy is a motion to alter or amend judgment under Fed.R.Bankr.P. 9023/Fed.R.Civ.P. 59; the motion is untimely under these provisions. Finally, it may be possible to seek relief under Fed.R.Bankr.P. 7024/Fed.R.Civ.P. 60. There is no recitation in the motion of the grounds, and even if the motion were deemed to be premised upon Rule 9024, the creditor has failed to comply with the requirements of N.D.Ind.L.B.R. B-9023-1(a).

Apart from the foregoing, the Court isn't clear on why the deviation between the terms of the creditor's apparent proposed modification and the terms of the confirmed plan is so critical. The proposed modification appears to contemplate that the indebtedness to Center Capital Corporation would be satisfied by a sale of the collateral which secured that claim; the debtor's plan contemplates satisfaction of the claim from sale of other property of the debtor. The difference between the time frames for satisfaction of the claim contemplated by the creditor and by the confirmed plan is essentially 60 days. The creditor has retained its interests in the

collateral which secures its indebtedness, and if the debtor fails to comply with the terms of its confirmed plan as to payment to the creditor, the creditor may exercise available remedies to collect that debt by exercising its rights as a secured creditor under applicable state law. The Court can inform the creditor that if the objection to confirmation which it asserted had been pressed at the confirmation hearing in the face of the plan's provision for satisfaction of the creditor's debt, the plan would have been confirmed in a hearing under 11 U.S.C. § 1129(a)(8)/1129(b). Perhaps there was a misunderstanding between counsel for the creditor and counsel for the debtor as to the manner of treatment of the creditor's claim to which the creditor consented. The Court is somewhat at a loss as to the actual substance of the discrepancy.

The bottom line is that the motion presents nothing to the Court upon which the Court can act, both because it does not delineate the specific grounds upon which the requested relief is premised, and because the only actual ground which can be asserted [Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60(b)] has not been presented in the manner required by N.D.Ind.L.B.R. B-9023-1(a).

IT IS ORDERED that the foregoing motion is denied, without prejudice to the creditor's seeking of appropriate relief in accordance with applicable law and rules.

Dated at Hammond, Indiana on July 28, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
US Trustee
Attorney for Creditor